



August, 2013

Boards of Assessors
City Auditors and Town Accountants
Mayors and Selectmen

The Bureau of Local Assessment (BLA) and Bureau of Accounts (BOA) stress the following items in preparation of the tax rate and/or pro forma recap for FY2014.

The following items are new for FY2014:

FY2014 Overlay Provision and the Verizon Decision

- Beginning in FY2010, M.G.L. c. 59, § 18 has expressly provided that poles and wires over public ways are taxable. However, whether such poles and wires were taxable prior to FY2010 was still in litigation. On March 19, 2012, the Appeals Court ruled in the appeal of the Verizon New England Consolidated Valuation cases, ATB 2009-851 Docket No. C273560 (October 1, 2009). Verizon New England, Inc. v. City of Boston, 81 Mass. App. Ct. 444 (2012). That appeal challenged the ATB's decision that Verizon, a corporation, was taxable for its (1) poles and wires over public ways before FY2010 and (2) CWIP.

The Appeals Court overruled the ATB's decision that poles and wires owned by a telephone corporation and located over public ways were subject to tax before FY2010. On May 3, 2012, the Supreme Judicial Court denied the further appellate review sought by the municipal parties on that issue.

The Appeals Court also decided that the statute does not require the company's property to be "in service" before it becomes taxable. It remanded the matter to the ATB to determine whether and what extent the valuation of the company's CWIP consisted of only those types of property taxable to the company. The Commissioner began centrally valuing telephone company CWIP in FY2009. Under the Court's decision, any portion of a corporation's CWIP attributable to poles and wires over public ways would not be taxable for FY2009, but would be taxable in subsequent years. No party in the case sought further appellate review on the CWIP ruling.

As a result of the Verizon decision, assessors do not need to set aside additional amounts in the FY2014 overlay to cover the valuation of CWIP, but they should ensure that it is sufficient to cover any company appeals of the Commissioner's valuations. For FY2009, we understand that most communities have paid abatement refunds to Verizon. Only communities that have not done so and are still contesting some aspect of the case need to keep overlay available for that year.

Transportation Reimbursement for Homeless Children

- The appropriation for this reimbursement, known by some as McKinney/Vento, has been approved for FY2014 at a reduced level from FY2013. It is anticipated that these funds will be distributed separate from FY2014 Cherry Sheet aid. For cities and towns planning to estimate these funds on the FY2014 tax rate recap, the Bureau will only allow estimates up to DESE's intended distribution. Higher estimates will likely be denied. Regional School Districts as well should be cognizant of DESE's estimates.
- Note that there are designated lines on page 3 of the Tax Rate Recap form for Hotel/Motel Excise, Meals Excise and for Medicaid reimbursements. Please report these actuals and estimates on the appropriate line.
- Report any rescission of borrowing authorization on page 4 of the Tax Rate Recap, column (g) as a negative amount. Note that this is information is memo only; the column provides no total which may interfere with the tax rate calculation.

The following items are substantially the same as in FY2013:

- The Bureau will continue to require that any FY2014 estimated receipt above its FY2013 actual amount (except for rounding) be supported by reasonable documentation. Unreasonable FY2014 estimates may be rejected by the Bureau for tax rate setting purposes.
- Communities having voted a Workers' Compensation Fund under either G.L. c. 40, § 13A or § 13C or an Unemployment Compensation Fund under c. 40, § 5E and having a fund deficit as of June 30, 2013 must provide for the deficit on the FY2014 tax rate recap.
- Any increase in enterprise fund indirect costs from FY2013 reported on schedule A-2 should be supported by documentation. In the past, the Bureau has recommended that every community with an enterprise fund establish a written, internal policy regarding indirect cost allocation and should review this policy annually. The Director of Accounts may reject any community's methodology, written or otherwise, as unreasonable for tax rate setting purposes.
- For Gateway LA-5 submission purposes, the Bureau of Accounts will allow any local official with Gateway check-off authority to do so on-behalf of the Board of Selectmen provided they have been given such authority by the board. Indication of this authority should be typed in the comment box. If this option is chosen, a hard copy of the LA-5 signed by the Board of Selectmen must still accompany other recap supporting documentation submitted to the Bureau of Accounts.

Local Option Meals Excise Tax

For cities and towns that adopted this local option effective in FY2012, up to 12 months of revenues may be estimated for FY2014. If adopted effective July 1, 2013, estimate up to 10 months of revenues for FY2014. All other communities should estimate based upon the [Meals Tax Timetable](#) and [Meals Excise Revenue Estimates](#) on the Division of Local Services' (DLS) website.

Community Preservation Act

A city or town imposing the CPA surcharge for the first time must submit the CPA surcharge estimate worksheet found in the FY2014 tax rate instruction book.

For purposes of completing schedule A-4, part 1a, state trust fund distribution, BOA will accept no amount greater than 26% of the FY2013 net (after abatements) surcharge committed unless either:

- the actual FY2014 distribution calculated and published by DLS (by law no later than November 15th) shows a greater amount;
- reasonable supporting documentation submitted can support a greater amount.

Reporting Rescission of FY2013 Appropriations from Tax Levy

Appropriation reductions from the tax levy as a funding source voted after FY2013's tax rate was certified should be reported on page 4 of the FY2014 tax rate or pro forma recap column (b), first in the amount of the initial appropriation followed by a negative for the same amount. In this way, FY2013 action will offset and FY2014 action will not be affected.

BOA's Annual March Budget Bulletin

In March of 2013, the Bureau issued its annual budget [Bulletin \(2013-02B\)](#) to local officials indicating BOA's position on a variety of FY2014 tax rate/pro forma issues from revenue and expenditure budgeting to enterprise fund matters to emergency spending.

Appropriating for Enterprise Fund Indirect Costs from the General or Other Fund

Per [IGR 08-101](#), indirect costs are generally appropriated as part of the general fund operating budget and are allocated to the enterprise fund as reported on schedule A-2. Do not appropriate these costs in both the General Fund operating budget and in the enterprise fund budget. Local financial officials may wish to show the public all costs of the enterprise fund, but should not duplicate their appropriation. Therefore, reporting of enterprise fund estimated receipts on page 3 of the tax rate or pro forma recap to offset such duplication should not occur.

FEMA/MEMA Reimbursement for Storm Related Damage

The following shall apply to FEMA/MEMA storm reimbursements:

Expenses paid as of June 30, 2013 (1) given Chapter 44 §31 approval by the Director of Accounts, (2) not provided for by borrowing or by appropriation and (3) not reimbursed by the time the FY2014 tax rate recap is submitted to the Bureau of Accounts for FY2014 tax rate certification must be provided for on page 2, Part IIB of the FY2014 recap.

Expenses paid on or after July 1, 2013 (1) given Chapter 44 §31 approval by the Director of Accounts (2) not provided for by borrowing or by appropriation and (3) not reimbursed by the time the FY2014 tax rate recap is submitted to the Bureau of Accounts for FY2014 tax rate certification may be provided for on page 2, Part IIB of the FY2014 recap. The deficit must be added to page 2, Part IIB of the FY2015 recap if not otherwise provided for.

Gateway: Tax Rate/Pro Forma Submission

DLS encourages submission of applicable forms through the Gateway system. When submitting forms via Gateway, BOA and BLA suggest that forms be completed, printed, signed and filed locally (for audit purposes) as well. Forward to BOA or BLA only supporting documentation not entered into Gateway.

Gateway: “On Behalf” Signatures

For FY2014 tax rate certification purposes, BOA and BLA will permit the following local officials to electronically sign (use of check-off box) tax rate recap and related forms on Gateway on-behalf of others:

- deputy or assistant assessors for the board of assessors;
- assistant city or town accountant for the city or town accountant;
- assistant clerk for the city or town clerk;
- clerk of the board of selectmen, or similar official, for the board of selectmen (see page 2 for new item);
- clerk for the city or town council, or similar official, for the city or town council.

The conditions for allowing these officials to sign on-behalf are that:

- the board/council has approved that the above indicated officials do this;
- this Gateway signature authority only extends to the tax rate recap and related forms;
- actual signed copies remain on file locally and the appropriate officials include this as a statement in the comment box below their electronic signature.

Note: The deputy or assistant assessor cannot sign on-behalf of a board of assessors' member who is deemed by DLS to be either not qualified to classify or unqualified.

Bureau of Accounts officials may electronically sign on behalf of any of the above indicated officials in extraordinary situations.

Auto E-Mail for Tax Rate Approval

Tax rate/pro forma approval letters will be e-mailed to assessors immediately upon approval, provided an e-mail address is reported in DLS' Local Officials Directory. Assessors are advised to check their e-mail account in this directory and notify the city, town or district clerk if it is incorrect.

An electronically signed copy of the FY2014 tax rate/pro forma recap will be placed on the DLS website on the same day the e-mail approval notification is sent after the form has been approved by BOA.

Massachusetts School Building Authority (MSBA)

For FY2014, enter reimbursements from this authority on page 2, part IIIa, line 2 of the tax rate or pro forma recap. The [FY2014 Estimated Receipts Worksheet](#) will assist you in entering the proper estimate. FY2014 reimbursements can be found on [MSBA's website](#).

For FY2014 tax rate and/or pro forma recap purposes, BOA will allow as an estimated receipt an amount (a) that is reported on MSBA's website, plus (b) any additional amount that is indicated via separate correspondence from MSBA in excess of the website amount. Be sure not to duplicate any estimated payment.

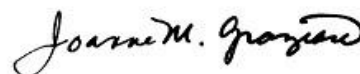
Review [IGR 08-102](#) for instructions on the receipt of payments and how to properly reserve/apply these payments whether or not a debt exclusion has already been voted.

Your BOA and BLA field representatives are ready to assist city, town and district officials in this important process. If you have any questions, please do not hesitate to contact them.

Sincerely,



Gerard D. Perry
Director of Accounts



Joanne Graziano, Chief
Bureau of Local Assessment